



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2019-0101]

RIN 1625-AA00

Safety Zone; Sail Grand Prix 2019 Practice Days Safety Zone for Sailing Vessels; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay in San Francisco, CA in support of the Practice Periods for Sail Grand Prix on April 30, 2019 and May 3, 2019. This safety zone ensures the safety of mariners transiting the area from the dangers accompanying high-speed sailing activities associated with the Sail Grand Prix sailing vessels. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission from the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective on April 30, 2019 and May 3, 2019, between 10:30 a.m. and approximately 4:00 p.m. each day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0101 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Emily K. Rowan, U.S. Coast Guard District 11, Sector San Francisco, at 415-399-7443, SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
TFR	Temporary Final Rule
§	Section
COTP	Captain of the Port
PATCOM	Patrol Commander
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard received initial notice of this event on October 12, 2018, but Sail Grand Prix Practice Day dates and details were not finalized until March 2019. Because these imperative details had not been finalized, it would have been

impractical to publish this rule for public comment.

For similar reasons as those stated above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (formerly codified at 33 U.S.C. 1231). The COTP San Francisco has determined that the high-speed sailing activities associated with the Sail Grand Prix sailing vessels during the Practice Periods on April 30, 2019 and May 3, 2019, will present a safety concern for other vessels within the practice course. This rule is needed to keep persons and vessels transiting the area away from sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood for capsizing during the simulation of racing scenarios. The safety zone will help prevent injuries that may be caused upon impact by these fast-moving vessels. The provisions of this temporary safety zone will not apply to anchored vessels, nor will it exempt racing vessels from any Federal, state or local laws or regulations, including Nautical Rules of the Road.

IV. Discussion of the Rule

This rule establishes a safety zone from 10:30 a.m. to approximately 4:00 p.m. on April 30, 2019 and 10:30 a.m. to approximately 4:00 p.m. on May 3, 2019, or as announced by Broadcast Notice to Mariners. The safety zone will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°49'19"N, 122°27'19"W; thence to

37°49'28"N, 122°25'52"W; thence to 37°48'49"N, 122°25'45"W; thence to 37°48'42"N, 122°27'00"W; thence to 37°48'51"N, 122°27'14"W and thence to the point of beginning. The safety zone will temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

On October 12, 2018 the LeadDog Marketing Corporation notified the Coast Guard that they plan to conduct the "Sail Grand Prix 2019" in San Francisco Bay. Sail Grand Prix 2019 is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The inaugural season started in February 2019 in five iconic cities throughout the world, traveling to San Francisco Bay in May 2019. LeadDog Marketing Corporation has applied for a Marine Event Permit to hold the Sail Grand Prix 2019 race event on the waters of San Francisco Bay in California. The Coast Guard has not approved the Marine Event Permit and is still evaluating the application. A separate notice of proposed rulemaking was issued on March 12, 2019 under docket number USCG-2019-0010 with respect to a special local regulation that would address the race periods.

The San Francisco Grand Prix 2019 event will include two official practice days which are scheduled to take place on April 30, 2019 and May 3, 2019, and during these practice days the race footprint will be established as a safety zone between the hours of 10:30 a.m. and approximately 4:00 p.m. or as announced by Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that the safety zone is limited in duration and is to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, it will not have a significant negative impact because the San Francisco Waterfront will not be impacted and vessels will be authorized to transit along the San Francisco Waterfront normally, without the need to request permission pursuant to this rule. Additionally, the local waterway users will be notified via advance public Broadcast Notice to Mariners to ensure that they can plan accordingly. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The

term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing. While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in V.A. above, this rule will not have a significant economic impact on any vessel owner or operator. As stated above, the safety zone will be limited in duration, and even while the safety zone is in effect, vessel traffic will be able to pass safely through waters outside the safety zone. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners so they can plan accordingly.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast

Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act

addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T11-971 to read as follows:

§ 165.T11-971 Safety Zone; Sail Grand Prix 2019 Practice Days, San Francisco, CA.

- (a) Location. The following area is a safety zone: all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following points beginning at: 37°49'19"N, 122°27'19"W; thence to 37°49'28"N, 122°25'52"W; thence to 37°48'49"N, 122°25'45"W; thence to 37°48'42"N, 122°27'00"W; thence to 37°48'51"N, 122°27'14"W and thence to the point of beginning.
- (b) Enforcement period. The zone described in paragraph (a) of this section will be enforced from 10:30 a.m. until approximately 4:00 p.m. on April 30 and May 3, 2019. The Captain of the Port (COTP) San Francisco will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners in accordance with § 165.7.
- (c) Definitions. For the purposes of this section, the following definitions apply:
 - (1) Patrol Commander or PATCOM means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the COTP San Francisco, to assist in the enforcement of the safety zone.
 - (2) Designated representative means a Coast Guard PATCOM, including a Coast

Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) Regulations. (1) Under the general regulations in subpart C of this part, the safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative. Entering into, transiting through, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF-23A or through the 24-hour Command Center at telephone (415) 399-3547.

Dated: April 24, 2019.

Marie B. Byrd,
Captain, U.S. Coast Guard,
Captain of the Port, San Francisco.

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